

RECEIVED  
FEDERAL ELECTION  
COMMISSION

**Bowditch  
& Dewey**  
ATTORNEYS

2014 JUN 23 PM 3: 03

OFFICE OF GENERAL  
COUNSEL

Vincent DeVito\*  
MA: +1 617-757-6518  
DC: +1 202-329-4070  
NY: +1 646-580-0120  
Fax: +1 508-929-3019  
vdevito@bowditch.com

June 20, 2014

VIA FEDERAL EXPRESS TRACKING No.: 7703 6880 5107

Jeff S. Jordan, Esq.  
Federal Elections Commission  
Office of the General Counsel  
999 E Street, NW  
Washington, DC 20463

**Re: MUR # 6815**

Dear Mr. Jordan:

Enclosed, please find Respondents Answer to the Complaint of the New Hampshire Democratic Party. Please do not hesitate to contact me should you have any questions or require additional information. Thank you.

Sincerely,



Vincent DeVito

VD:cea

{Client Files/BUS/311212/0001/COR/B0471437.DOCX;1}

\*Bar Admissions: District of Columbia - Commonwealth of Massachusetts - State of New York  
[www.bowditch.com](http://www.bowditch.com) Boston / Framingham / Worcester

One International Place, 44th Floor, Boston, MA 02110-2602 P: 617.757.6500

CELEBRATING

100  
YEARS OF SERVICE

**BEFORE THE  
FEDERAL ELECTION COMMISSION**

Raymond Buckley  
New Hampshire Democratic Party  
105 North State Street  
Concord, New Hampshire 03301

Complainant,

v.

MUR # 6815

Scott Brown  
P.O. Box 600  
Rye, New Hampshire 03870

New Hampshire for Scott Brown  
P.O. Box 600  
Rye, New Hampshire 03870

Paul Kilgore, Treasurer  
New Hampshire for Scott Brown  
P.O. Box 600  
Rye, New Hampshire 03870

Respondents.

**ANSWER**

Scott Brown, New Hampshire for Scott Brown, and Paul Kilgore, Treasurer (collectively, the "Respondents") hereby file this answer in response to the complaint of the New Hampshire Democratic Party (the "Complainant") under 2 U.S.C. § 437g(a)(1) designated MUR #6815 by the Federal Elections Commission (the "Commission" or "FEC"). To greet Scott Brown's entry into the 2014 U.S. Senate election, New Hampshire Democrats predictably filed a hyperbolic

complaint. Despite their rhetoric, the complaint, in reality, is a political tactic with little substance and should be promptly dismissed by the Commission.

As detailed below, Scott Brown timely filed his Statement of Candidacy and his campaign timely filed its Statement of Organization. Mr. Brown and his Committee both filed on March 14, 2014, near the close of the first Quarter reporting period. The activity complained of occurred as the period was coming to a close. The Committee did not receive any invoices during the First Quarter and did not make any disbursements in the first Quarter. It arguably incurred minor expenses in the final days of the reporting period. So that there not be a distraction from the important issues of this campaign, Respondents have filed an amendment to their First Quarter report showing \$21,060 in expenses incurred that have been promptly paid in the Second Quarter. With said amendment, a minor, technical reporting question has been resolved and the Commission should therefore exercise its discretion and dismiss this Complaint.

#### A. FACTS

Mr. Brown filed a Statement of Candidacy with the FEC on March 14, 2014 and designated the New Hampshire for Scott Brown Exploratory Committee (the "Committee") as his principal campaign committee. The same day, the New Hampshire for Scott Brown Exploratory Committee filed a Statement of Organization with the FEC. The Committee filed an amended Statement of Organization on April 9, 2014 changing the Committee's name to New Hampshire for Scott Brown and Mr. Brown amended his Statement of Candidacy accordingly. As accurately reflected on his First Quarter Report, prior to March 14, 2014, the Respondents did not receive any contributions or make any expenditures with regard to Mr. Brown's potential run for the New Hampshire Senate seat. In mid-March, the Respondents began the campaign

activity listed in the complaint, including the production of the web videos, the "listening tour," the production of the television ad, and the updates to Mr. Brown's website.

In relation to these activities, Respondents were not invoiced for any goods or services provided by vendors until after March 31, 2014. In addition, the Respondents did not enter into any written contracts with these vendors until after March 31, 2014.<sup>1</sup> This uninvoiced work now appears as a debt on the Committee's amended First Quarter report. The invoice for this work was paid on April 30, 2014 and will appear on the Committee's Second Quarter report as a Disbursement. Schedule D reflects that the invoice has been paid.

## **B. LEGAL ANALYSIS**

### **1. The Committee's Reports Now Accurately Reflects Expenditures and Debts for its First Quarter Activities**

The Act requires authorized campaign committees to disclose on its filings "the total amount of all disbursements" including "expenditures made to meet candidate or committee operating expenses..."<sup>2</sup> In addition, authorized campaign committees are required to disclose "the amount and nature of outstanding debts and obligations owed by or to such political committee."<sup>3</sup> The activity in question occurred at the end of the First Quarter reporting period. As a factual matter, in the First Quarter, the Committee did not, during the relevant period, pay any money or make any expenditures to any vendors, political committees, staff, or anyone else for operating expenses or any other purpose.<sup>4</sup> Thus, the Committee did not have disbursements

<sup>1</sup> Use of personal funds by Mr. Brown to pay for his travel expenses (transportation, meals and lodging), were well under \$1000 for the reporting period and are, therefore, not reportable as a contribution or campaign committee expenditure.

<sup>2</sup> 2 U.S.C §434(B)(4)

<sup>3</sup> Id. §434(B)(8)

<sup>4</sup> See id. §434(B)(4); 11 CFR 116.5(b); Federal Election Commission, Federal Election Campaign Guide: Congressional Candidates and Committees 97(2011).

16044361270

which needed to be reported on its quarterly statement and the figure that was reported is appropriate.<sup>5</sup>

The Committee also reported \$0 in debts on Schedule D of the April filing. Arguably, in the last weeks of the reporting period, the Committee did incur an expense of producing a website and web video. These materials were used by the Committee in the First Quarter, although it did not receive an invoice until the Second Quarter. That invoice has been timely paid and will appear on the Committee's Second Quarter report. In order to avoid a protracted argument over whether this invoice should or should not have been reported on the First Quarter report, the Committee has amended its First Quarter report. Such should conclude this matter.

**2. Mr. Brown Filed his Statement of Candidacy, and the Committee filed its Statement of Organization, by the Required Date**

The Act Defines a "candidate" as "an individual who has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000"<sup>6</sup> As of March 14, 2014, Mr. Brown had not accepted any contributions and had not made any expenditures. Therefore, Mr. Brown had not become a "candidate" within meaning of the Act before he filed his Statement of Candidacy designating the Committee as his principal campaign committee<sup>7</sup> and, thus, both documents were timely filed. When Mr. Brown decided in his mind to run for the election is irrelevant to when he became a "candidate" since the Act's definition is based on contributions received and expenditures made<sup>8</sup> or when a candidate decides to file. Since Mr. Brown did not receive any contributions or make any expenditures (except for minor

<sup>5</sup> See 2 U.S.C §434(B)(4)

<sup>6</sup> 11 C.F.R. § 103(a)(1)

<sup>7</sup> See 11 C.F.R. § 100.3(a)(1)

<sup>8</sup> 11 C.F.R. § 100.3(a)(1)

19044361271

personal travel costs totaling less than \$1,000) prior to the date he filed his Statement of Candidacy, allegations about the "testing the waters" exception are not applicable in this matter.<sup>9</sup>

**C. CONCLUSION**

As demonstrated above, the Respondents timely filed their Statement of Candidacy and Statement of Organization. Furthermore, Respondents fixed an arguably, technical reporting matter concerning activities at the close of a reporting period by filing an amended report. Therefore, we respectfully request that the Commission dismiss the Complaint, close the file, and take no further action with regard to this matter.

June 20, 2014

Respectfully Submitted,



Vincent DeVito  
Counsel to Respondents  
Bowditch & Dewey, LLP  
1 International Place, 44th Floor  
Boston, MA 02110  
MA: 617 757 6518  
DC: 202 329 4070  
NY: 646 580 0120  
Fax: 508 929 3019  
vdevito@bowditch.com

<sup>9</sup> See id. §§ 100.72, 100.131